IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.5897 OF 2006

Shri Virendra Y Raut, .. Petitioner
Vs
M/s Utsav Family Restaurant
& Bar and ors .. Respondents

Mr P.J.Shinde, for the petitioner.
Mr Udaypuri i/b Mr Udaipuri and co. for respondent no.1.

CORAM : D.B.BHOSALE,J.
DATE : 20.10.2006

PC:

1. Heard the learned counsel for the parties.

2. On the last occasion, I recorded the statement of Mr Shinde, learned counsel for the petitioner, in the order dated 13.9.2006 to the effect that "the petitioner (defendant no.5) does not intend to obstruct possession of the respondent-plaintiff over the disputed marginal space by keeping cabin thereon". Mr Shinde, had also submitted that no cause of action has arisen against the petitioner and, therefore,the petitioner has prayed for dismissal of the suit. Mr Udaypuri, learned counsel for the respondent-plaintiff, submits that in view of the statement made by Mr Shinde, learned counsel for the petitioner, and which has been recorded in the order dated 13.9.2006, he has instructions to state that the respondent-plaintiff shall file an appropriate application before the trial court seeking deletion of

the name of the petitioner (defendant no.5) in the suit. In view of this statement, nothing further survives in this writ petition. If the respondent-plaintiff files an application, as aforestated, the trial court shall allow the respondent-plaintiff to delete the name of the petitioner-defendant no.5 from the arraign of the defendants. The deletion of the petitioner from the suit shall not preclude the parties from taking appropriate proceedings/ action, if any such occasion arises in future. With these observations, the writ petition stands disposed of.

(D.B.BHOSALE,J.)